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To: Stephen R. Crow – UNITED STATES PATENT AND TRADEMARK OFFICE
ART UNIT 3764

Fax No.: 1-703-872-9306

No. of Pages: 16 (incl. this page)

From: David B. Dellenbach

Date: November 9, 2004

File No./Subject: SECOND SUBMISSION OF PETITION UNDER 37 C.F.R. § 1.181 TO
WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO
RECEIVE OFFICE ACTION

Patent Application

Serial No.: 09/943,741

Filed: August 30, 2004

Title: ELLIPTICAL EXERCISE DEVICE WITH LEAF SPRING SUPPORT

Our File: 13914.741

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VIA FACSIMILE (703) 872-9306

PATENT APPLICATION
Docket No. 13914.741

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re application of:

Watterson et al.

Serial No.: 09/943,741

Filed: August 30, 2004

Confirmation No.: 8528

For: ELLIPTICAL EXERCISE DEVICE WITH LEAF SPRING SUPPORT

Examiner: Stephen R. Crow

NUV 09 2004

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the following documents are being filed with the U.S. Patent and Trademark Office via facsimile to Attn: Stephen R. Crow, Examiner U.S. Patent and Trademark Office, facsimile number: 1-703-872-9306 this 7 day of November, 2004:

- Second Submission Of Petition Under 37 C.F.R. § 1.181 To Withdraw Holding of Abandonment Based On Failure To Receive Office Action (1 page)
- Transmittal of Second Submission of Petition Under 37 C.F.R. § 1.181 To Withdraw Holding of Abandonment Based on Failure to Receive Office Action (1 page)
- Petition Under 37 C.F.R. § 1.181 To Withdraw Holding of Abandonment Based on Failure To Receive Office Action (12 pages)

Respectfully submitted,



David B. Dellenbach
Attorney for Applicants
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VIA FACSIMILE (703) 308-5065

PATENT APPLICATION

Docket No. 13914.741

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re application of

Watterson, et al.

Serial No.: 09/943,741

) Art Unit

) 3764

Filed: August 30, 2001

)

Conf. No.: 8528

)

For: ELLIPTICAL EXERCISE DEVICE WITH LEAF
SPRING SUPPORTS

)

Examiner: Stephen R. Crow

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TRANSMITTAL FOR PETITION UNDER 37 C.F.R. § 1.181
TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION

VIA FACSIMILE (703) 308-5065
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

Enclosed herewith for filing is a PETITION UNDER 37 C.F.R. § 1.181 TO
 WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE
 ACTION in the above-identified patent application.

Dated this 21 day of October 2004.

Respectfully submitted,

David B. Dellenbach
 Attorney for Applicants
 Registration No. 39,166
 Customer No. 022913

FILED VIA FACSIMILE (703) 308-5056

PATENT APPLICATION
Docket No. 13914.741

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

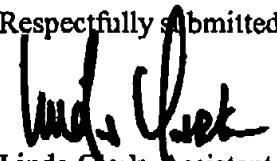
Watterson, et al.)
Serial No.: 09/943,741)
Filed: August 30, 2001) Art Unit
Confirmation No. 8528) 3764
For: ELLIPTICAL EXERCISE DEVICE WITH LEAF)
SPRING SUPPORT)
Examiner: Stephen R. Crow)

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the following documents are being filed with the U.S. Patent and Trademark Office via facsimile to Attn: Blanche May - Image Assistance Center, Examiner U.S. Patent and Trademark Office, facsimile number: (703) 308-5056 this 21 day of October, 2004:

- Transmittal for Petition Under 37 C.F.R. § 1.181 to Withdraw Holding of Abandonment Based on Failure to Receive Office Action (1 page) (in duplicate)
- Petition Under 37 C.F.R. § 1.181 to Withdraw Holding of Abandonment Based on Failure to Receive Office Action Amendment After Notice of Allowance Under 37 C.F.R. § 1.312 (2 pages)
- Copy of Notice of Abandonment (3 pages)
- Copy of Docket Record (2 pages)

Respectfully submitted,



Linda Clark, Assistant to
David B. Dellenbach
Attorney for Applicants
Registration No. 39,166
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LC0000001777V001

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To: Blanche May (Image Assistance Center) UNITED STATES PATENT AND TRADEMARK OFFICE
 Fax No.: (703) 308-5056⁶⁵
 No. of Pages: 11 (incl. this page)
 From: David B. Dellenbach
 Date: October 21, 2004
 File No./Subject:

**PETITION UNDER 37 C.F.R. § TO WITHDRAW HOLDING OF
 ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION**
 Patent Application
 Serial No.: 09/943,741
 Filing Date: August 30, 2001
 Title: ELLIPTICAL EXERCISE DEVICE WITH LEAF SPRING SUPPORT
 Our File: 13914.741

**Applicants request that copies of the Notice of Allowance and Notice of Allowability
 be sent to Applicants' counsel.**

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FACSIMILE COVER PAGE

To: Blanche May (Image Assistance Center) UNITED STATES PATENT AND TRADEMARK OFFICE
 Fax No.: (703) 308-5056⁶⁵
 No. of Pages: 11 (incl. this page)
 From: David B. Dellenbach
 Date: October 21, 2004

File No./Subject:

PETITION UNDER 37 C.F.R. § TO WITHDRAW HOLDING OF
 ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

Patent Application

Serial No.: 09/943,741

Filing Date: August 30, 2001

Title: ELLIPTICAL EXERCISE DEVICE WITH LEAF SPRING SUPPORT

10014741



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22311-1450
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAME: INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,741	08/30/2001	Scott R. Watterson	13914.741	8528
22911	7590	10/12/2004	EXAMINER	
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			CROW, STEPHEN R.	
		ART UNIT		PAPER NUMBER
		3764		
DATE MAILED: 10/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Arrangement
 Response Due 10/26/04
 On 10/26/04
 By EFC File #

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark OfficeAddress: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/943,741			EXAMINER
			ART UNIT
			PAPER NUMBER

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

Applicant's failure to timely file a proper reply to the Office letter mailed on _____.

A reply (with Certificate of Mailing or Transmission of _____) was received on _____ which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.

A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

A reply was received on _____, but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).

No reply has been received.

Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85) (or Notice of Publication Fee Due).

The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due. The issue fee by 37 CFR 1.18 is \$ _____. The publication fee, if required, by 37 CFR 1.18(d) is \$ _____.
 The issue fee and publication fee, if applicable, have not been received.

Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).

Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.

No corrected drawings have been received.

The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.

The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.

The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

The reason(s) below: _____
 Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to

Attachment to Notice of Abandonment

**For questions concerning the notice contact
Office of Patent Publication
Image Assistance Center: 888-786-0101.**

Information is also available on the USPTO Internet web site:
<http://www.uspto.gov/web/patents/pubs/abandonnotice.html>

Respond to the Notice of Abandonment by one of the following:

1. Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing 37 CFR § 1.10 "Express Mail" mailing or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 703-872-9306

2. Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 703-872-9306

3. Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <http://www.uspto.gov>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 703-872-9306

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment

Country Application**Docket No:** 13914.741**Client:** Icon Health & Fitness, Inc**Attorneys:** RIC DEL**Case Type:** ORD**Application Number:** 09/943741**Publication Number:** 0045401-A1**Patent Number:****Parent/PCT Number:****Parent Patent Number:****Tax Schedule:** I.E**Confirmation Number:** 8528**Agent:****Agent Reference #:****Thursday, October 21, 2004****Page: 1****Country:** US**SubCase:****United States of America****File Number:** 13914.741**Application Status:** Published**Filing Date:** 30-Aug-2001**Publication Date:** 06-Mar-2003**Issue Date:****Parent/PCT Date :****Parent Issue Date :****Expiration Date:****Terminal Disclaimer:****Patent Term Adjustment:** 0**Application Title:** Elliptical Exercise Device with Leaf Spring Supports

Country Application

Thursday, October 21, 2004 Page: 2

List Of Actions

Action(s) Due	Due Date		Action Taken
Claim Priority Warning	13-Sep-2001	Reminder	02-Nov-2001
Claim Priority Reminder	27-Sep-2001	Reminder	02-Nov-2001
Claim Priority Due	30-Oct-2001	Due Date	02-Nov-2001
IDS Reminder	30-Oct-2001	Reminder	27-Nov-2001
Information Disclosure Stmtt	30-Nov-2001	Due Date	27-Nov-2001
MISSING PARTS	04-Dec-2001	Due Date	19-Oct-2001
Send standard letter	28-Feb-2002	Due Date	27-Feb-2002
Verify with Brad	01-Mar-2002	Due Date	21-Mar-2002
Verify	01-Apr-2002	Due Date	08-May-2002
Claim Priority Follow Up Date	02-May-2002	Due Date	02-Nov-2001
IDS Follow Up Date	27-May-2002	Due Date	27-Nov-2001
Foreign Filing 3 Mo. Reminder	30-May-2002	Reminder	06-Aug-2002
Verify	01-Jul-2002	Due Date	11-Jul-2002
Foreign Filing Due	30-Aug-2002	Due Date	06-Aug-2002
Status Check	30-Aug-2002	Due Date	21-Sep-2002
Verify with Bra Follow Up Date	11-Jan-2003	Due Date	11-Jul-2002
Foreign Filing Follow Up Date	06-Feb-2003	Due Date	06-Aug-2002
Check Status	30-Aug-2003	Due Date	05-Sep-2003
RESPONSE	03-Dec-2003	Reminder	23-Mar-2004
Draft response	26-Dec-2003	Due Date	16-Mar-2004
RESPONSE	03-Jan-2004	Due Date	26-Feb-2004
2 month extension deadline	03-Mar-2004	Due Date	23-Mar-2004
EXT. RESPONSE	03-Mar-2004	Reminder	26-Feb-2004
EXT. RESPONSE	03-Apr-2004	Due Date	23-Mar-2004
check status	30-Aug-2004	Due Date	26-Nov-2003
Verify abandonment	26-Oct-2004	Due Date	
Verify abandonment	12-Dec-2004	Due Date	

User ID: apalmer

Date Created: 18-Apr-2001

Last Update: 20-Oct-2004

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